

RULE 116.4

CONFIDENTIAL MATERIALS; IMPOUNDING

(a) In General

The general aim of the statute (Jencks Act) is to restrict the use of Jenks statements to impeachment of a government witness by bringing to the attention of the jury during cross-examination of the witness any variances between his testimony and his pretrial statements. *Palermo v. United States*, 360 U.S. 343, 352 (1959). The Court is specifically concerned with grand jury material which disclosure may cause serious prejudice to parties unrelated to criminal prosecutions and/or ongoing criminal investigations in the District of Puerto Rico. Since the useful purpose of the *Jenks* statements does not surpass the limits of cross-examination, its availability and use may, at the parties' request, be limited. The parties may achieve said purpose by filing a motion for impoundment.

(b) Impounded and Confidential Materials

- (1) Motions for impoundment must be filed and ruled upon prior to submission of the actual material sought to be impounded, unless the Court orders otherwise.
- (2) The Court will not enter blanket orders that counsel for a party may at any time file material with the Clerk of Court, marked confidential, with instructions that the Clerk withhold the material from public inspection. A motion for impoundment must be presented each time a document or group of documents is to be filed.
- (3) Whenever a party files a motion to impound, the motion shall contain a statement of the earliest date on which the impounding order may be lifted, or a statement, supported by good cause, that the material should be impounded until further order of the Court. The motion shall contain suggested custody arrangements for the post-impoundment period.
- (4) The Clerk of Court shall attach a copy of the order to the envelope or other container holding the impounded material.
- (5) If the impoundment order provides a cut-off date but no arrangements for custody, the Clerk of Court (without further notice to the Court or the parties) shall place the material in the public information file upon expiration of the impoundment period. If the order provides for post-impoundment custody by counsel or the parties, the material must be retrieved immediately upon expiration of the order, or the Clerk (without further notice to the Court or the parties) shall place the material in the public file.